Supreme Court, U.S.
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No. 05-1337

In The

Supreme Court of the United States

RONNIE GARNER,

Petitioner,

v.

STEPHANIE GONZALES, PAMELA S. HYDE, JAMES LOUGHREN, IRA ROBINSON, MICHAEL D. BUSTAMANTE, and MICHAEL E. VIGIL,

Respondents.

On Petition For Writ Of Certiorari To The United States Court of Appeals For The Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

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April 17, 2006

QUESTION PRESENTED FOR REVIEW

Can original federal jurisdiction be denied by a federal district court pursuant to the *Rooker-Feldman* doctrine of a 42 U.S.C. § 1983 action filed in reliance on the *Ex Parte Young* doctrine to remedy ongoing violations of federal law and violations of federal rights by state officials acting under color of state law?

LIST OF AFFILIATED CORPORATIONS

There are no corporations or affiliated corporations involved with this case. All parties to the proceeding are listed in the caption.

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CITATIONS TO THE OPINION BELOW

Ronnie Garner prays the Supreme Court grant a writ of certiorari to review the judgment of the court below.

The Order and Judgment of the United States Court of Appeals for the Tenth Circuit, No. 05-2096 (D.C. No. CIV-04-1314 RHS/ACT) (D. N.M.) filed February 2, 2006; Petition for Panel Rehearing was denied February 28, 2006.

JURISDICTION

The Order and Judgment of the United States Court of Appeals for the Tenth Circuit was entered February 2, 2006. **App. 1** A Petition for Panel Rehearing was timely filed February 14, 2006. **App. 14** The Petition for Panel Rehearing was denied February 28, 2006. **App. 9**

This Court has jurisdiction to issue a writ of certiorari to the United States Court of Appeals for the Tenth Circuit pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Congress shall have Power to Lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and Provide for the common defense and general Welfare of the United States; but all Duties, Imposts, and Excises shall be uniform throughout the United States;

United States Constitution, Article 1, Section 8, Clause 1.

Child Support Enforcement Program, Title 42, Chapter 7, Subchapter IV Part D, 42 U.S.C. § 667. **App. 11**

Code of Federal Regulations, Title 45, Chapter III, Child Support Enforcement Program, § 302.56. **App. 12**

STATEMENT OF THE CASE

Petitioner filed a Complaint in U.S. District Court alleging violations of 42 U.S.C. § 1983 by six state officials acting under color of state law and praying for only prospective and injunctive relief under the *Ex Parte Young* doctrine, *Ex Parte Young*, 209 U.S. 123, for alleged ongoing violations of federal law, specifically 42 U.S.C. § 667 and its implementing regulations, 45 C.F.R. § 302.56, enacted under Congress' Spending Power, United States Constitution, Article 1, Section 8, Clause 1.

Because there was a previous state court decision that Petitioner referenced in his Complaint to help document alleged ongoing violations of federal law and Petitioner's rights in his § 1983 action, Defendants claimed Petitioner was attempting to alter or overturn a previous state court decision; thus, the federal district court lacked jurisdiction based upon the *Rooker-Feldman* doctrine; as well as *Domestic Relations, Eleventh Amendment,* and *Abstention* defenses.

The U.S. District Court granted Defendant's Motion to Dismiss with prejudice and without any discussion or analysis. **App. 7**

Petitioner timely appealed to the Tenth Circuit Federal Court of Appeals.

The Tenth Circuit panel issued its Order and Judgment on February 2, 2006 that stated, on page 3, that the case could be dismissed, "On any number of grounds for want of subject matter jurisdiction." (The Tenth Circuit panel did not enumerate the "number of grounds"), but then stated, "The clearest ground for dismissal of this matter was on the basis of the *Rooker-Feldman* doctrine." **App. 3**

The Tenth Circuit's analysis appeared to be that any "look" at the previous state court decision, even to document allegations of ongoing violations of federal law and federal rights in violation of § 1983, filed under the *Ex Parte Young* exception, was prohibited by the *Rooker-Feldman* doctrine and thus the federal district court lacked subject matter jurisdiction.

Because the Tenth Circuit misapplied the *Rooker-Feldman* doctrine in this case, it never reached the issue of the *Ex Parte Young* doctrine and thus did not ask the critical questions, required under the *Ex Parte Young* doctrine, to assess whether Petitioner's Complaint 1) alleges ongoing violation of federal law and 2) seeks only relief that is properly characterized as prospective.

The three issues raised by the Tenth Circuit decision that merit review by this Court are:

1. Whether Plaintiff satisfied the requirements for federal jurisdiction under 28 U.S.C. § 1331.

2. Whether the *Rooker-Feldman* doctrine was improperly applied by the Tenth Circuit to deny federal subject matter jurisdiction of a properly pled § 1983 action filed under the *Ex Parte Young* doctrine.

3. Whether the allegations against state employees acting under color of state law contained in Petitioner's complaint, filed under 42 U.S.C. § 1983, met the criteria of the *Ex Parte Young* doctrine enumerated by this Court.

REASONS TO GRANT THE PETITION

A. THE TENTH CIRCUIT'S APPLICATION OF THE *ROOKER-FELDMAN* DOCTRINE TO DENY FEDERAL SUBJECT MATTER JURISDICTION WAS ERROR.

Petitioner's complaint in this case sought to invoke the original jurisdiction of the Federal District Court for New Mexico. 28 U.S.C. § 1331 states, "The district courts have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

Petitioner's complaint was an original civil action against state actors alleging that they violated federal law, specifically 42 U.S.C. § 667 and implementing regulations, 45 C.F.R. § 302.56.

The *Rooker-Feldman* doctrine was improperly applied by the Tenth Circuit to dismiss Plaintiff's Complaint because the *Rooker-Feldman* doctrine only bars subject matter jurisdiction of appeals of decisions from the highest state court to a federal district court and is based upon the principal that under 28 U.S.C. § 1257(a) original jurisdiction for appeals from the highest state court lies only in this Court. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *Dist. of Columbia Ct. of App. v. Feldman*, 460 U.S. 462 (1983); and *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005). This Court in *Exxon Mobil Corp.*, supra, at 288, cited *Verizon Maryland, Inc. v. Public*

Service Commission of Maryland, 535 U.S. 635, at 644, n. 3 (2002) that stated:

> "The *Rooker-Feldman* doctrine merely recognizes that 28 U.S.C. § 1331 is a grant of original jurisdiction, and does not authorize district courts to exercise jurisdiction over state-court judgments, which Congress reserved to this Court, see 28 U.S.C. § 1257(a)."

Furthermore, *Exxon Mobile Corp. v. Saudi Basic Industries Corp.*, supra, p. 295, stated:

> "Nor does § 1257 stop a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court. If a federal plaintiff 'present[s] some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party . . . , then there is jurisdiction and state law determines whether the defendant prevails under principles of preclusion.' *GASH Assocs. v. Village of Rosemont*, 995 F. 2d 726, 728 (CA7 1993); accord *Noel v. Hall*, 341 F. 3d 1148, 1163-1164 (CA9 2003)."

Thus, the *Rooker-Feldman* doctrine has a very narrow application limited to state court plaintiffs who have litigated and lost in state courts and subsequently invite the federal district courts to review and reject a state-court decision. The recent holding by this Court in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005) admonished federal courts against applying the *Rooker-Feldman* doctrine to civil actions brought in federal district court, such as a § 1983 action filed under the *Ex Parte Young* doctrine that alleges an ongoing violation of federal law, where only relief properly characterized as prospective is requested.

In the present case, the Tenth Circuit did not apply the rule enumerated in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, supra, and thus the U.S. District Court and the Tenth Circuit Court of Appeals failed to properly find jurisdiction under 28 U.S.C. § 1331.

The Tenth Circuit erred and violated this Court's prior holdings by improperly denying jurisdiction under the *Rooker-Feldman* doctrine.

B. THE TENTH CIRCUIT COURT OF APPEALS ERRED BY FAILING TO ANALYZE THE CASE UNDER THE *EX PARTE YOUNG* DOCTRINE.

Petitioner filed a federal district court complaint, under the original jurisdiction provided by 28 U.S.C. § 1331, alleging ongoing violations of federal law against state actors acting under color of state law. Such actions against state officials are allowed pursuant to 42 U.S.C. § 1983 by the *Ex Parte Young* doctrine.

This Court in *Idaho v. Coeur d'Alene Tribe of Idaho,* 521 U.S. 261, at 296 & 298-299 (1997) elaborated a "straightforward inquiry" into § 1983 suits filed under the *Ex Parte Young* doctrine that requires only: 1) whether the complaint alleges an ongoing violation of federal law and 2) whether the complaint seeks only relief properly characterized as prospective. If these two criteria are met, a complaint states a good cause of action and federal jurisdiction is granted.

However, the Tenth Circuit in the present case not only failed to apply criteria for an *Ex Parte Young* doctrine analysis but also misapplied the *Rooker-Feldman* doctrine even after reviewing this Court's decision in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005).

The Tenth Circuit stated on page 4 of its Order and Judgment filed February 2, 2006, in footnote 2:

> "The recent clarification by the Supreme Court of the scope of *Rooker-Feldman* in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005) does not affect the outcome of this case." **App. 4**

The Tenth Circuit's failure to analyze this matter under the specific criteria of the *Ex Parte Young* doctrine is error and places its decision in conflict with the prior decisions of this Court.

C. PETITIONER'S COMPLAINT DOCUMENTED A SUFFICIENT BASIS FOR FEDERAL JURISDICTION UNDER THE *EX PARTE YOUNG* DOCTRINE.

The Complaint (**App. 29**) alleges six ongoing violations of federal law and Petitioner's rights by state officials acting under color of state law. Furthermore, the Complaint seeks only prospective declaratory and injunctive relief as required by this Court, *Ex Parte Young*, 209 U.S. 123 (1908). The *Ex Parte Young* doctrine only requires the satisfaction of two criteria in order for the cause of action to escape the Eleventh Amendment's prohibition against suing state officials: 1) whether the complaint alleges an ongoing violation of federal law and 2) only seeks relief properly characterized as prospective. The prospective relief requested by Petitioner in the Complaint (**App. 58-60**) as follows:

> "1. Declare that New Mexico's laws are defective and that Defendants violated Plaintiff's rights under IV-D statutes and implementing regulations by failing to review child support award amounts every four years and/or failing to use current economic data for the cost of raising children in New